



Public Health
England

Protecting and improving the nation's health

All things legal

Data Workshop – 29th September 2015

A right to privacy?



"It is well known that in English law there is no right to privacy, and accordingly there is no right of action for breach of a person's privacy. The facts of the present case are a graphic illustration of the desirability of Parliament considering whether and in what circumstances statutory provision can be made to protect the privacy of individuals"

Lord Justice Glidewell

A right to privacy.

European Convention on Human Rights

UK - Human Rights Act 1998

Article 8.

- 1 Everyone has the right to respect for his private and family life, his home and his correspondence..
- 2 There shall be no interference with the exercise of this right and no State shall undertake any such interference except such as is in accordance with the law, and is necessary in a democratic society in the interests of national security, public safety, the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Naomi Campbell wins privacy case

Supermodel Naomi Campbell has won her breach of confidentiality claim against the Daily Mirror.

By a three-to-two majority, the Law Lords overturned an Appeal Court ruling that the Mirror had been justified in publishing information about her.

Miss Campbell had objected to the publication of pictures of her leaving drug addiction treatment in early 2001.

The Appeal Court had ordered her to pay the paper's £350,000 legal costs after overturning a High Court ruling.



Miss Campbell will receive the High Court damages of £3,500

Data Protection Act 1998

- Anyone who processes personal information must comply with the eight principles
- It provides individuals with important rights, including the right to find out what personal information is held about them

Principles

Information must be:

- Fairly and lawfully processed
- Processed for specified purpose
- Adequate, relevant and not excessive
- Accurate and up-to-date
- Not kept for longer than is necessary
- **Processed in line with individuals' rights**
- Secure
- Not transferred outside the European Economic Area without adequate protection

Legal protection for confidential information derives from the common law. This provides that information may be legally protected if it is: (i) confidential in nature (eg health or financial data); and (ii) disclosed in circumstances giving rise to a duty of confidentiality



A little more common law

In practice, this means that all patient/client information, whether held on paper, computer, visually or audio recorded, or held in the memory of the professional, must not normally be disclosed without the consent of the patient/client.

Three circumstances making disclosure of confidential information lawful are:

- where the individual to whom the information relates has consented;
- where disclosure is necessary to safeguard the individual, or others, or is in the public interest; or
- where there is a legal duty to do so..

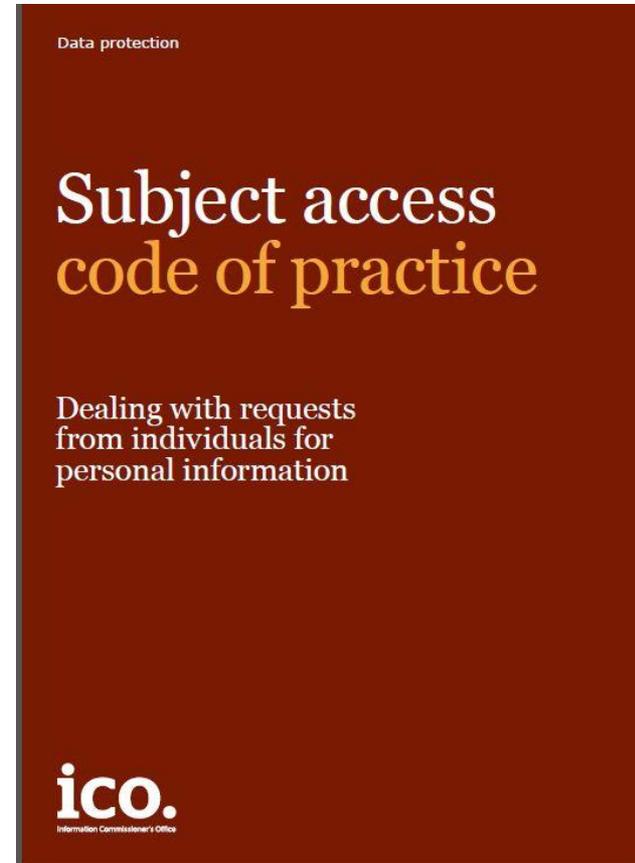
Your rights

- a right of access to a copy of the information comprised in their personal data;
- a right to object to processing that is likely to cause or is causing damage or distress;
- a right to prevent processing for direct marketing;
- a right to object to decisions being taken by automated means;
- a right in certain circumstances to have inaccurate personal data rectified, blocked, erased or destroyed; and
- a right to claim compensation for damages caused by a breach of the Act.

Subject Access

It is most often used by individuals who want to see a copy of the information an organisation holds about them. However, the right of access goes further than this, and an individual who makes a written request and pays a fee is entitled to be:

- told whether any personal data is being processed;
- given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- given a copy of the information comprising the data; and given details of the source of the data (where this is available).



Subject Access

What data can I have?

"It follows from what I have said that not all information retrieved from a computer search against an individual's name or unique identifier is personal data within the Act. Mere mention of the data subject in a document held by a data controller does not necessarily amount to his personal data. Whether it does so in any particular instance depends on where it falls in a continuum of relevance or proximity to the data subject as distinct, say, from transactions or matters in which he may have been involved to a greater or lesser degree."

Lord Justice Auld
Durrant vs FSA

Subject Access

What data you cannot have

Confidential references

Legal Privilege Documents

Management forecasts

Negotiations with the individual

Any information if its release would prejudice:

- the prevention or detection of crime;
- the apprehension or prosecution of offenders; or
- the assessment or collection of any tax or duty or of any imposition of a similar nature.

Repeat requests

Third Party Information

Subject Access

Data Protection Act 1998 – Subject Access Request



Comedian Mark Thomas has made a subject access request for information held by Lincolnshire Police under the Data Protection Act 1998.

He said the police had provided him with more than 60 individual records and said he was taking them to a domestic extremist database.

This form is to be used when an individual (The Data Subject) wishes to access personal data held by Lincolnshire County Council. There is currently no fee payable for this service. Please send the completed form and appropriate identification to the address at the end of the form.

Please use **BLOCK CAPITALS** when completing this form.

Applicant check list – before returning your form please check you have

Provided enough details in section 2, 3 and 4 to allow us to locate the information you have requested	<input type="checkbox"/>
Signed and dated the declaration in section 4	<input type="checkbox"/>
Enclosed photocopies of your proof of identity and address as detailed in section 5	<input type="checkbox"/>
Completed and signed the declaration in section 7, if you wish us to send this information to a third party e.g. a representative acting on your behalf	<input type="checkbox"/>

Section 1: Applicant (to be completed in all cases)

Please select one of the following:



Preventing Processing

- The Act refers to the “right to prevent processing”. Although this may give the impression that an individual can simply demand that an organisation stops processing personal data about them, or stops processing it in a particular way, the right is often overstated. In practice, it is much more limited. An individual has a right to object to processing only if it causes unwarranted and substantial damage or distress. If it does, they have the right to require an organisation to stop (or not to begin) the processing in question.

Preventing Processing



“On a straightforward reading of section 10, provided that the claimant proves that he has suffered or is suffering substantial unwarranted damage or distress as a result of the processing of his personal data by Google (as he says he has) and has given written notice to Google (as he has done) and Google do not advance any reason for stating that the notice is unjustified, the claimant is entitled to ask the court to order Google to take such steps as it thinks fit to comply with the notice and the court is entitled so to order.”
[24]

Mr Justice Mitting

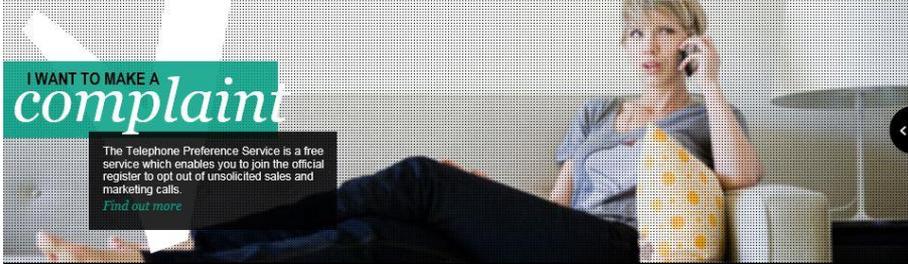
Direct Marketing



Telephone Preference Service

The free opt out service enabling you to record your preference on the official register and not receive unsolicited sales or marketing calls.

CONTACT | MAKE A COMPLAINT



I WANT TO MAKE A
complain

The Telephone Preference Service is a free service which enables you to join the official register to opt out of unsolicited sales and marketing calls.
[Find out more](#)

- HOME
- REGISTER
- MAKE A COMPLAINT
- WHAT IS TPS?
- STILL GETTING CALLS
- BOGUS TPS CALLS
- WHAT IS CORPORATE TPS?
- FREQUENTLY ASKED QUESTIONS
- AM I REGISTERED?
- OFCOM CONSUMER GUIDE
- HELPFUL LINKS
- LICENSEE INFORMATION & LIST

Welcome

We are the Telephone Preference Service

The Telephone Preference Service (TPS) is a free service. It is the official central opt out register on which you can record your preference not to receive unsolicited sales or marketing calls. It is a legal requirement that all organisations (including charities, voluntary organisations and political parties) do not make such calls to numbers registered on the TPS unless they have your consent to do so.

Organisations with which you have an ongoing relationship, for example those who regard you as a customer, (or in the case of charities - a donor) may well gather your consent during the early stages of your relationship with them and will therefore be entitled to call you even if your number is registered on TPS, unless you have previously told them specifically that you object to them calling you for marketing purposes.

The TPS can accept the registration of mobile telephone numbers, however it is important to note that this will prevent the receipt of marketing voice calls but not SMS (text) messages. If you wish to stop

Top news



Unsolicited Text Messages

Whilst registration with the TPS cannot prevent the receipt of unsolicited text messages (SMS) you can find useful information on how to deal with such messages here.
[Find out more](#)

Register



Mailing Preference Service

- HOME
- WHAT IS MPS?
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- BABY MPS
- FPS
- TPS
- COMPLAINTS
- CONTACT
- USEFUL LINKS
- LICENSEES
- LIST CLEANERS
- CORPORATE SITE
- PRESS ENQUIRIES

Welcome to Baby MPS Online

The Baby Mailing Preference Service is here to help reduce the number of baby-related mailings you receive.

Many parents to be are happy to hear from companies who can help them at this exciting time in their lives but in the sad circumstances of the death of a baby, mailings to parents about baby products from well meaning companies can cause unintended hurt.

That's why the Mailing Preference Service provides Baby MPS - a free service that is both sympathetic and effective.

▶ REGISTER

Bogus MPS Calls

Be wary of people calling you claiming to be from the Telephone (Mailing) Preference Service asking for payment to complete your registration. TPS/MPS is a FREE service.

We have also been made aware of an overseas company claiming to be BT, asking for your credit card details to stop unwanted calls. This is a scam. Never give out your credit card details over the phone.

If you do receive a call from someone claiming to be from the TPS or a similar sounding organisation, asking for personal information or charging you for this service, please check that it was the TPS you registered with and not another organisation offering similar services. Some of



- What is mps?
- Take a tour
- Register
- FAQ
- Complaints
- Your Choice
- MPS
- Baby MPS
- FPS
- TPS

Welcome to MPS Online

UK consumers generate millions of pounds of postal sales per year, the majority welcome the information and special offers they receive by post.

However, some people might take a different view. The MPS is here to make your choice known

- so you get the mail you want and need.

If you have suffered a bereavement or just want to stop unsolicited mail register with the MPS.



Register
Stop unsolicited mail

Complaints
Make a complaint

MPS Licence
Find out the benefits

Bogus MPS Calls Overseas mailing?

Be wary of people calling you claiming to be from the Telephone (Mailing) Preference Service asking for payment to complete your registration. MPS is a FREE service.

- ▶ Contact
- ▶ List Cleaners
- ▶ Useful Links
- ▶ Corporate Site
- ▶ Licensees
- ▶ Press Enquiries

One final 'right'

Part of our role is to take action to ensure organisations meet their information rights obligations.



Company fined for marketing products that blocked its own cold calls

The ICO has fined Cold Call Elimination Ltd £75,000 for making unsolicited marketing calls to sell cold call blocking devices.

Take action

[Report a concern](#) →

[Search the register](#) →

What we've done

Action we've taken to ensure organisations meet their information rights obligations.



Enforcement

See the latest monetary penalties, enforcement notices, undertakings and prosecutions we have issued.



Decision notices

Since 2005 we've ruled on more than 6,500 freedom of information and environmental information cases.



Audits, advisory visits and overview reports

What we've found when visiting and working with organisations.



Monitoring reports

Our monitoring of how long organisations are taking to respond to freedom of information requests.

What's happening now

Find out what we're doing about spam texts, marketing calls and cookies.



[Data breach trends](#)



[Nuisance calls and messages](#)



[Cookies](#)

More information – ico.org.uk

ico.
Information Commissioner's Office

The UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

Home For the public For organisations Report a concern Action we've taken About the ICO

Work in data protection in Wales?
Sign up for the ICO Wales Conference 2015 – on Wednesday 25 November at the Metropole Hotel and Spa, Llandrindod Wells.

Be wary of public Wi-Fi
25 September 2015

ICO statement on fundraising report
23 September 2015

Sponsorship of ICO moves to DCMS
17 September 2015

More news and blogs →

Take action

- Register your organisation →
- Report a concern →
- Search the register →

For the public
We're here to help

- Request your personal information
- Sick of nuisance calls?
- Getting information from a public body
- How is your personal information handled?

For organisations
Public bodies, private sector, sole traders

- Data protection
- Freedom of information
- Electronic marketing
- Education
- Health
- Business

See all our guidance for organisations →

Some final thoughts...



But I do not believe that the current Data Protection Act needs to be revised as a result of these events. It is, as a member of the judiciary said recently, an 'inelegant and cumbersome' piece of legislation, but the legislation was not the problem. I suggest, however, that better guidance is needed on the collection, retention, deletion, use and sharing of information

The Bichard Inquiry 2004

Personal Data



	Facebook	1,490,000,000
1	China	1,372,250,000
2	India	1,277,580,000
3	United States	321,887,000
4	Indonesia	255,780,000
5	Pakistan	209,715,847
6	Brazil	204,945,000
7	Nigeria	182,202,000

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10	Japan	126,865,000
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Questions